

**Minutes for the State of North Carolina
Forensic Science Advisory Board Meeting**

December 2, 2015
North Carolina State Crime Laboratory
Raleigh, NC

Board members present: State Crime Laboratory (SCL) Director John Byrd, Kermit Channell (Chair), Adam Becnel, Tracey Dawson Cruz, Demi Garvin, Mike Jiroutek, Amanda Julian, Tim Kupferschmid, Alka Lohmann, Peter Marone, Christopher Palenik, Bethany Pridgen, Ronald Singer (all via telephone except Director Byrd)

Board members not present: Michael Coble, David Hinks, Deborah Radisch

Others in attendance: John Dilday, Ann Hamlin, Deena Koontz, Timothy Suggs, Pete Ware (SCL); Stormie Forte (SCL Ombudsman); Christine Mumma (NC Center on Actual Innocence, via telephone); John Bason, Forensic Science Advisory Board Counsel Matthew Boyatt, North Carolina State Crime Lab Counsel William Hart, Julia White via telephone (NC DOJ)

Meeting called to order at 10:01 AM with a roll call of the members attending via telephone. **Chairman Channell welcomed members** and thanked them for participating in this, the first online/telephonic meeting of the Forensic Science Advisory Board (FSAB).

Thanked Director Byrd for keeping members up to date about developments in NC between meetings by proving links, etc. and noted progress of the Triad Lab. Recent positive press is gratifying.

Peter Marone made a motion to approve the **minutes** as amended. Seconded by Demi Garvin; unanimous vote.

Director Byrd began his **Director's Report** by noting that updating board members via periodic electronic meetings will save time when the group meets in person, and allow them to spend more time in the laboratory looking at its processes/procedures and meeting with staff.

SCL in the media: Associated Press reporter interviewed the Director twice prior to publication of the story "Crime lab: Shorter turnaround time, but attrition still an issue." Story, written in the wake of sexual assault kit stories coming out of Wilmington, was carried in a number of NC newspapers. Director found the story to be balanced. It also generated some editorials. Director Byrd and former SCL Director Judge Joe John co-wrote an op-ed piece in response to some of the inaccuracies in the editorials.

Outreach: Director addressed meetings of District Court Judges and the NC Conference of District Attorneys. Was also invited to address the first meeting of the Criminal Investigation and Adjudication Committee of NC Chief Justice Mark Martin's new Commission on the Administration of Law and Justice. The Commission is an effort to look at all of the processes within the administrative office of the courts. Other stakeholders, including the SCL, are participating. The meeting included representatives from various stakeholders as well as representatives of the public. Director noted that the SCL needs enhanced fiscal resources to perform its assigned duties in a timely manner. Director reported that attendees were receptive to his comments.

Pending legislation: Director is working with DOJ Legislative Liaison Christie Agner on two bills that are eligible for consideration in the upcoming “short” session of the NC General Assembly. One addresses CODIS, the other is about using toxicology affidavits in court.

Regarding the **School of Government Working Group’s Memorandum of Understanding (MOA)** project to create efficiencies in the SCL, 26 of the state’s 50 districts have now signed up. Some are in the process of signing. Advocates of the MOA, including Superior and District Court judges, are working to get them approved in the unsigned districts.

The upgrade to **Forensic Advantage 15.0** has been smooth. Tim Kupferschmid: What about the RFID project? Deputy AD John Dilday: We’re looking at incorporating RFID tags on their evidence, to create savings in (1) Reconciliation of the inventory, and (2) the ability to monitor individual items as they leave the lab. Will make it easier to determine their location and status. The system will cost about \$80,000.

Director: **Retention committee** remains active. Committee members are mostly junior analysts. Often do events at lunch. Periodically they hand out coffee in the lobby to people as they’re coming in to work in the morning. Committee is doing a good job of raising morale.

On **Administrative Operations**, Assistant Director Deena Koontz reported:

There are currently just 21 **vacancies**, including the 10 additional positions they just got from the legislature this session.

SCL administrative office space is being renovated to create a better layout for management. Design phase is completed, currently awaiting approvals for plans that have been developed.

Western laboratory construction began quickly although heavy rains slowed the progress and necessitated the construction of a rock/gravel road for the heavy equipment. AD Koontz showed photographs of the progress.

They are identifying the **needs of the SCL**, and making best use of existing positions. Deputy AD Dilday needs additional help with Forensic Advantage. They are transitioning his assistant, who spends most of her time supervising evidence control, from a part-time to a full-time position.

Currently interviewing for a Chief Evidence Technician. Also identified need for additional help in Human Resources/hiring. Repurposed an open position for that, and the employee will start next week.

Have decided to separate the Toxicology and Drug Chemistry disciplines. A Forensic Sciences Manager for Toxicology position will be posted.

Chairman Channel: I recall there were some issues with purchasing when the SCL and SBI were splitting up. How is purchasing being handled? AD Koontz: Purchase orders are created in the lab. Once the invoices are in, they are sent to DOJ. So purchasing is both internal and external.

Director Byrd: As the split was taking place, AD Koontz and then-director Judge John identified 5 positions that needed to be brought to SCL to assist with logistical support for purchasing, and HR. Got statutory language to address those positions. At SCL they've been shifted around as needed, to create balance.

On **Technical Operations**, AD Pete Ware reported:

Currently 25,217 cases in the system, another dramatic drop from prior numbers. Original goal was to be at 25,000 by February 1, 2016. Will be working with managers, who have been doing a great job, on setting goals for getting under 20,000.

Since last FSAB meeting, Triad Lab is fully up and functioning in toxicology. Bench analysts there are working blood alcohol cases. Great headway in that area, will continue to see those numbers drop.

Director Byrd resumes: SCL is now down to a 316 day **turnaround**, averaged across the lab. Some sections, like body fluids, are turning cases around in as little as 60 days. Other sections are on the other side of the average. DNA is just under a year, but they are making good progress.

People don't care how many cases SCL has, they want to know what the turnaround time is. But as the number of cases declines, turnaround time continues to drop as well.

One challenge they're facing is "**preservation of evidence**" orders, when a court orders that materials be saved indefinitely. These inactive cases skew turnaround time stats because they are typically so old. SCL has about 12 of them in the system currently.

SCL is prodding for action in each individual case. Getting parties to come to the table and determine what needs to be done with the evidence. SCL Counsel William Hart has been successful in arguing the need to move forward. Director says these orders may be a challenge that all labs face, and would be interested to know how other states are dealing with the issue of preservation orders.

Chairman Channel agreed that preservation orders can give an inaccurate picture of lab productivity. He has sometimes seen 2 sets of figures presented. One shows average turnaround time, the other shows turnaround time excluding "preservation of evidence" cases, to highlight the impact they have on stats.

Director thanked FSAB for their letter to the Attorney General regarding **accreditation**. AG pays attention to the board because of its independence, and the expertise and knowledge of its members. Shortly after receiving their letter, AG made a decision accepting the recommendation to move to single accreditation. AD Ware and Quality Manager Timothy Suggs are studying the question of how and when the move to single accreditation will occur.

Forensic biology training is a moving target. In September there were 15 in training. Since then two current staffers have resigned, although not for financial reasons. Vacancies will be posted in 10 to 15 days. Already some interest in those positions.

DNA positions have been relatively easy to fill and retain. Toxicology positions are hard to keep filled because they are so marketable once they leave the lab. Biologists are too, but for some reason they're able to keep the biology positions filled easier. Current DNA trainees are in various stages of their training, including mock courts.

They've been working with DAs RE: "**stop-work**" orders. Sending spreadsheets to DAs offices' showing all of their cases currently in the system. Then calling to follow-up, to see which ones no longer need to be worked. Since September, they've done over 6000 stop works.

In September, 18 counties were participating in **toxicology outsourcing**. At a meeting of the NC Conference of District Attorneys, Director asked for help spending money that's available to pay for outsourcing. The outsourcing vendor has to do the work within 60 days of receipt, and their analysts' testimony is paid for. It is a no-lose situation for the DAs, and many responded positively - 34 counties are now participating in the program.

The eighth batch of **outsourcing** was sent yesterday. SCL just received notification that 700 cases from Greensboro will be outsourced. Primarily working with larger counties and districts on this. DAs had \$450,000 for outsourcing available and AD Koontz worked with DOJ Financial Services to ensure that processes were in place to allow that money to be spent. A total of \$1.9 million is available.

Outsourcing by SCL is a short-term solution until they get caught up, and they are getting closer. Want to get to a point where work can begin on cases as soon as they come in. Triad Lab has now begun working 2015 drug chemistry cases and is reaching out to local law enforcement agencies to say "...Why are you sending evidence to labs you have to pay, when we can do it just as fast for free...?"

Some law enforcement agencies in NC have contracted with vendor labs and are paying them for services because they think they need to, in order to get a faster turnaround. But SCL can get "rush" cases turned around in fairly short order. (SCL asks for 90 days, to be fair to the analysts and the multiple disciplines.)

SCL Ombudsman Stormie Forte has taken on the additional duty of **working with prosecutorial districts and outsourcing vendors** that SCL is using. Tracking all cases that go to court, and managing testimony.

Forte: It's going smoothly so far. NMS Labs' analysts have testified in Gaston and Catawba counties; were accepted as expert witnesses by both courts. Due to increase in outsourcing, she has reached out to all DAs. Asking them to work with local judges and defense bar to set up court sessions where as many outsourcing cases as possible can be scheduled for one session, reducing travel time. Each district can do court scheduling a little bit differently so there are sometimes limitations on what they can be done to accommodate this request.

She has also sent spreadsheets to counties regarding their outsourced cases. Asking for information about the status of the case: Dismissed? Pled guilty? Set for trial? She's in the process of getting those back.

Demi Garvin: Can any drug compounds be taken off of the panel, to reduce the turnaround time? Drug Chemistry Manager Ann Hamlin: We haven't considered that. Wanted NMS Labs testing to mirror testing done at SCL. Garvin: OK. Perhaps certain classifications of drugs or individual compounds don't need to be tested for - something to think about.

Update on **toxicology training**, which is a continuous process. Nine have completed training; eight others are in various stages of the process. Director underscored Pete Ware's comments: when toxicology is up and running at Western Lab as it is at Triad Lab, turnaround times will drop significantly. Next year, will look at the possibility of redistributing cases to create balance between the labs.

Meeting recessed at 10:50 for a short break.

Meeting resumed at 11:00.

Director Byrd presented the **Labor Market Salary Adjustment brief** which explains how raises for SCL staff, utilizing special funding from the General Assembly, were determined. Previously presented the brief to SCL managers and DOJ senior leadership team. Sought clearly articulated goals with balanced and equitable rules for distribution, providing accountability to employees, legislature, and NC citizens.

In developing formulas to distribute the money, AD Koontz did the lion's share of the work on the front end. She got it to the point where they could get together with DOJ Human Resources and DOJ Financial Services to refine it. SCL worked closely with DOJ HR and Financial Services, NC Office of State Budget and Management, and NC Office of Human Resources to finalize the formulas.

Original goal was to have all Forensic Scientists (FS's) being paid at or above 100% of market value, but appropriation wasn't large enough to make that possible. (Amount requested was set by NC General Assembly Fiscal Research Division and Office of State Budget and Management, based on the number of filled positions at the time of the original request. Did not include vacancies, or positions that have been added since the request.)

Would have cost about \$1.5 million to get everyone to 100% of market value, but funding was \$1.02 million. The realistic, adjusted goal was to get to 90% of market value for all scientists, supervisors, and managers. (For HR's purposes, acceptable market value range = plus or minus 10%, or, 90% to 110%.)

They worked to maintain the spread of salary between classifications, as suggested by Peter Marone in the September meeting, and to maintain education and experience spreads within the classifications when possible.

Employee turnover records showed high numbers for FS I's and II's, so they focused 68% of the available funds on I's and II's, and a total of 83% on I's, II's and III's. They funded every position in the lab, filled or vacant, so they wouldn't have to play catch-up later.

Primary salary rules:

- Any salary below the target market rate of 90% gets increased to 90%.
- Employees already between 90% and 100% of the target market rate get a flat \$1000 raise.
- Employees already at 100% of the target market rate but still under the maximum pay allowed for their position under the state classification system get a flat \$500 raise.
- Employees already at 100% of the target market rate *and* already receiving maximum pay allowed for their position did not get a raise. (There was no way around this state rule.)
- Vacant positions get funded at the target market rate for the classification (95% for Associates and FS I's)
- Employees had to be on board by November 2 to be eligible.
- Increases retroactive to July 1.
- New minimum "Special Entry Rate" for FS I's starts at 90% of market, increased to 95% after one year.
- Future increases to be determined by new system being implemented by NC, based on labor market rates, which could conceivably help keep SCL employees up with market rates going forward.

SHR said no one could get more than a 10% increase without special approval. DOJ/SCL sought and received approval on behalf of a few individuals.

Salary Rates:

- FS I's - Funded at 95 to 97% of market (depending on length of service)
- FS II's - Funded at 97% of market (Salary is 9% above FS I's)
- FS III's - Funded at 90% of market (15% above FS II's)
- FS Supervisors – Funded at 91% of market (almost 6% above FS III's)
- FS Managers – Funded at 90% of market (11% above FS Supervisors)

Most longtime SCL employees are supervisors, managers and above.

“Associates” salary rates are now 8% higher at each of the increments (hiring, 6, 12, and 18 months). When they reach 24 months they get to a new minimum which is 90% of market value. After an additional year of satisfactory service that goes to 95%. This required special approval from SHR.

Determining these and other individual salary rates, accounting for retroactivity, and manually entering the information into NC's Beacon pay system required a tremendous amount of work by DOJ HR and Financial Services sections.

Higher-than-anticipated SCL expenditures (\$400,000 over projected) in the 1st quarter, combined with the fact that the certified State Budget wasn't released until October, required **prioritization and adjustments to SCL budgets** to provide necessary cash flow to accomplish salary adjustments:

- Discontinued overtime; switched to comp time which is being used on a limited, as-needed basis
- Reduced the number of temporary employees, and their hours
- Discontinued using retired SBI agents to help with background checks.
- Delayed filling 10 new positions until 1/2016 (except those being filled by internal applicants)
- Leaving some vacancies open for a month or two

The Labor Market Adjustment briefing also included information for staff, especially young staff, to help them understand what their paychecks will look like after the retroactive and other one-time dollars. Being proactive in helping employees positively manage the increases in their checks, making sure they understand the impact with regard to taxes.

In conclusion Director Byrd noted that AG Cooper took point on the Labor Market Adjustment effort, and that former SCL Director Judge Joe John began requesting the funds years ago after documenting the need. Director gave credit for acquisition of the funds, and the development of formulas to distribute them, to: NC DOJ Chief of Staff Kristi Jones; NC DOJ Legislative Liaison Christie Agner; SCL AD's Deena Koontz and Pete Ware; NC DOJ HR Director Barbara Gibson and staff; NC DOJ Chief Financial Officer Nels Roseland and staff of Financial Services; and the State Offices of Human Resources, and Budget and Management.

Q&A/discussion – Tracey Dawson Cruz: Under which classification does the new DNA Technical Leader position fall? Answer: FS III. Since they are dividing up the Toxicology and Drug Chemistry disciplines, there will be two separate Technical Leaders starting in January. After dust has settled from Labor Market Adjustment, they will take another look. Both positions were filled internally.

Dawson Cruz: In addition to no longer using retired SBI for background checks, what else has changed?
AD Koontz: We eliminated redundancies, so the background checks process is more streamlined. We're using some of the SCL's remaining "sworn" employees, in addition to non-sworn. No longer administering polygraphs, but doing other additional scrutiny.

Chairman Channel: Impressive work, coming up with all of these formulas. Dawson Cruz: Agreed. Anecdotally, I happened to encounter an SCL analyst after they had learned about the raise. The person came running up and was beaming, said they "ain't going nowhere" now. You made a lot of people very happy with this, and it can help you retain good people.

Director Byrd: The afternoon of the day the raises were announced, he and the AD's spent time circulating the building and talking to staff. Employees were in shock or overwhelmed, and several shed tears. Overall, great appreciation and thankfulness from the staff. That night he wrote a thank-you letter to the AG, noting that the day was a highlight of his 25 years in state government.

Kupferschmid: The story of this Labor Market Adjustment process and outcome would be a good presentation to deliver to the symposium at American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB).

Adam Becnel: I agree, and I am currently affiliated with ASCLD/LAB and could facilitate that. Director: More than willing to share how SCL got to this point. Amanda Julian: Thank you to NC for doing groundwork that might be helpful to a similar effort in Florida.

Christine Mumma of the NC Center on Actual Innocence: The many positive changes at SCL are good news but we also need to remember that the push for improvement was sparked by adversities. Thank you for reaching out to/meeting with the defense bar, and including us in many discussions. But please also remember to include us whenever you are listing stakeholders. Director Byrd: Thank you - point taken. Didn't intend to leave the defense bar out when discussing stakeholders.

Director Byrd: Discussed with the Chairman that we want to use the **SharePoint** website as a way to help the Board to meet its statutory requirement to review the SCL's procedures. Board input needs to be formally documented and acknowledged, and SharePoint can help to facilitate that. Ultimately SharePoint will be how the whole SCL, not just the Board, reviews procedures. It is all secure, and accessed via a DOJ login. Trying to make the IT as user-friendly as possible, however SCL will soon convert from SharePoint 2010 to Office 365 SharePoint so this isn't the final version.

Director demonstrated the website for FSAB members while noting that they have read-only access and would need to make comments or suggestions about the online material via another route, not using the SharePoint website itself. Exactly how the board should do its formal commenting and review is to be determined.

Channel: This will be discussed at the next meeting. Even if there aren't any substantial changes, we have to review these procedures annually. Want to make sure that the board is on the front end of the review process. We need to review these, but we also need to pay attention to the other responsibilities of the board.

Regarding the **next meeting**, the Chairman noted that there had been discussion of the possibility of a 2-night stay to allow for more time in breakout sessions with staff. That schedule would also offer the benefit of not being constrained in the afternoon by concerns about airline flight departure times.

Director Byrd: AD Koontz and I had extensive conversations about this. Because of budget issues, we are recommending that we stick with one-day meeting for February. Will know at that point more about how SCL is doing regarding its budget, which will help determine feasibility of doing a 2-night stay for the next in-person meeting.

Regarding the **agenda** for the next meeting, the Chairman noted that there's been discussion about holding the breakout sessions in the morning and holding the formal board meeting in the afternoon. That might help the Board to identify a research project to advance, as the Director has requested.

Bethany Pridgen: It might also bring up topics to discuss in the meeting. We usually meet with staff in a conference room, would prefer something less formal. Possible to observe staffers while they work?

Director Byrd noted that SCL policy states that outsiders can't observe casework. However, they can pull people out to talk. Would that be a reasonable compromise? Pridgen: Staffers sometimes look to their supervisors before answering questions as if to say "What can I say?" Whatever can be done to set up a more casual environment for interacting with staff would be great.

Director Byrd: By having today's meeting as a call-in meeting, we may be generating the time needed to do that. I don't necessarily need an hour and a half for my presentation. Might be able to get it down to an hour, and let FSAB members spend the rest of the time focused on the teams.

Chairman Channel: It's good for the board to have opportunity to ask employees about hurdles or obstacles that keep them from doing their jobs better. Members' experience might help with solutions.

Director Byrd: Will talk it over with managers and draft some ideas to send to the Chairman or the full board. Figure out the best way to orchestrate it so members get the maximum out of their time. Likes idea of doing his formal presentation in the afternoon.

Chairman Channel: Thanks to everyone for being on the call. Thanks to the Director and staff, I know it is a lot of work to prepare for these meetings. Heard a lot of good things today, a lot of progress and headway.

Excited for the staff, especially with regard to salaries. Salary adjustments are part of a tipping point on employee retention, will make a "night and day" difference.

Next meeting date is February 9, with February 8th as a travel date. The Board agreed to wait until the February meeting to determine the date of the next call-in meeting.

Director noted that he had received emails from board members who were unable to access SharePoint. Deputy AD Dilday will reach out to all board members to reconfirm usernames and passwords.

Ron Singer: Motion to adjourn. John Byrd: seconded. Vote was unanimous and the meeting adjourned at 12:08 PM.